

REMARKS

Claims 18 to 34 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Claims 18, 20, 21 and 27 to 34 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,808,656 to Gradel (hereinafter "Gradel"). Claim 19 was in the alternative rejected under 35 U.S.C. §103(a) as being unpatentable over Gradel in view of U.S. Patent No. 4,284,593 to Sutcliffe (hereinafter "Sutcliffe"). Claims 22, 23, 25 and 26 were rejected under 35 U.S.C. §103(a) as being unpatentable over Gradel, as applied for claims 18, 20, 21, 27 to 34 above, and further in view of U.S. Patent No. 4,643,873 to Hayes (hereinafter "Hayes"). Claim 24 was rejected under 35 U.S.C. §103(a) as being unpatentable over Gradel in view of Hayes, as applied for claims 22, 23, 25 and 26 above, and further in view of U.S. Patent No. 5,238,304 to Zimmerman (hereinafter "Zimmerman"). Claims 32 and 34 were in the alternative rejected under 35 U.S.C. §103(a) as being unpatentable over Gradel, as applied for claims 18, 20, 21, 27 to 31, and 33 above, and further in view of U.S. Publication No. 2006/0188053 to Vandergheyst (hereinafter "Vanderghyst").

Reconsideration of the application based on the following remarks is respectfully requested.

35 U.S.C. §112 Rejections

Claims 18 to 34 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The Office Action asserts that "[t]he method step of specifically not sieving before shaping is not disclosed by Applicant and furthermore the concept of a binder, present or not, is not disclosed by the specification."

First, it is noted that it is the Examiner's burden for proving that the written description requirement is met. See MPEP 2163.04.

Second, the "subject matter of the claim need not be described literally (i.e. using the same terms or *in haec verba*) in order for the disclosure to satisfy the written description requirement." MPEP 2163.02.

The proper standard for complying with the written description requirement is that the specification must *reasonably* convey to one of skill in the art that the inventor, at the time the application was filed, had possession of the claimed invention. MPEP 2163 I.

Applicants submit herewith DECLARATION OF CATHERINE CALLENS UNDER 37 C.F.R. § 132, to further support Applicants' position that the present specification *reasonably* conveys to one of skill in the art that the inventor, at the time the application was filed, had possession of the claimed invention, and specifically "wherein the particulate material is not sieved before shaping and no binder is added to the powder of the particulate material before the shaping."

Withdrawal of the rejection of claims 18 to 34 under 35 U.S.C. §112 is respectfully requested.

35 U.S.C. §103 Rejections

Claims 18, 20, 21 and 27 to 34 were rejected under 35 U.S.C. §103(a) as being unpatentable over Gradel.

Gradel discloses a method of producing a nuclear fuel sintered body.

Claim 18 has been amended to recite "[a] process for manufacture of nuclear fuel pellets through sintering of a material containing uranium dioxide UO_2 obtained from a powder originating from a process for a dry route conversion of uranium hexafluoride UF_6 comprising:

obtaining the powder directly by the UF_6 hexafluoride dry route conversion process;
placing the powder in a vessel containing moving, compressing and mixing bodies, wherein the moving bodies are wholly free within the interior of the vessel and move in three noncoplanar axes with the powder;

agitating the vessel such that the powder moves within a volume of the vessel in three noncoplanar axes to be compressed between moving bodies and walls of the vessel to form a particulate material having a density in an uncompact state of at least 1.7 g/cm^3 ; and

shaping the particulate material obtained by agitation in the vessel into raw fuel pellets that undergo sintering

wherein the particulate material is not sieved before shaping and no binder is added to the powder of the particulate material before the shaping.” Support for the amendments to claim 18 can be found in the substitute specification on page 10, lines 3 to 12, for example.

Gradel fails to teach or show “wherein the moving bodies are wholly free within the interior of the vessel and move in three noncoplanar axes with the powder,” as now recited in claim 18. The Office Action cites to milling in Gradel for forming particulate material. Such milling disclosed in Gradel uses a hammermill. (See column 11, lines 59 to 60). The hammers of the hammermill are the “moving bodies.” Such hammers only move in a single plane, for example two noncoplanar axes, and not “in three noncoplanar axes,” as claimed.

Admittedly, Gradel also fails to teach or show “agitating the vessel such that the powder moves within a volume of the vessel in three noncoplanar axes to be compressed between moving bodies and walls of the vessel to form a particulate material having a density in an uncompact state of at least 1.7 g/cm^3 ” as recited in claim 18. The Office Action asserts that “Gradel teaches milling as an option for forming particulate material,” and “a milling device intrinsically requires that the powder move within a volume of the vessel in three noncoplanar axes to be compressed between some form of moving bodies and walls of the vessel.” However, milling can be performed in many different ways. “The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic.” “In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.” *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). MPEP 2112. The Examiner has failed to provide any basis in fact or technical reasoning to support her assertions that “milling device intrinsically requires that the powder move within a volume of the vessel in three noncoplanar axes to be compressed between some form of moving bodies and walls of the vessel.”

Finally, Gradel fails to teach or show “wherein the particulate material is not sieved before shaping and no binder is added to the powder of the particulate material before the shaping” as recited in claim 18. The Office Action asserts that “Gradel does not explicitly disclose specific process steps where the particulate material is not sieved before shaping or that no binder is added to the powder of the particulate material before the shaping, one of ordinary skill in the art at the time of the invention would appreciate that since no mention of a binder or sieving is made that Gradel has not disclosed the inclusion of such explicit steps of the process.” The Office Action asserts that the grid of the present invention is a “sieving” step. However, the grid is not a sieving step and is used to maintain the moving bodies in the vessel. Furthermore, even if the grid were a sieving step as asserted, the grid is not used “before shaping,” as claimed. Finally, Gradel does disclose a sieving step, referenced in Gradel as a “screening step.” (See column 11, lines 59 to 60). The term “screening” is equivalent to “sieving.” (See attached definition 3. “undesirable material that has been separated from usable material by means of a screen or sieve”). Therefore, Gradel does teach a sieving step.

Withdrawal of the rejection to claims 18, 20, 21 and 27 to 34 is respectfully requested.

Claim 19 was in the alternative rejected under 35 U.S.C. §103(a) as being unpatentable over Gradel in view of Sutcliffe.

Claim 19 is dependent on claim 18. In light of the discussion regarding claim 18 withdrawal of the rejection of claim 19 is respectfully requested.

Claims 22, 23, 25 and 26 were rejected under 35 U.S.C. §103(a) as being unpatentable over Gradel, as applied for claims 18, 20, 21, 27 to 34 above, and further in view of Hayes.

Claims 22, 23 and 26 are directly dependent on claim 18 and claim 25 is indirectly dependent on claim 18. In light of the discussion above with respect to claim 18 withdrawal of the rejection of claims 22, 23, 25 and 26 is respectfully requested.

Claim 24 was rejected under 35 U.S.C. §103(a) as being unpatentable over Gradel in view of Hayes, as applied for claims 22, 23, 25 and 26 above, and further in view of Zimmerman.

Claim 24 is indirectly dependent on claim 18. In light of the discussion regarding claim 18 withdrawal of the rejection of claim 24 is respectfully requested.

Claims 32 and 34 were in the alternative rejected under 35 U.S.C. §103(a) as being unpatentable over Gradel, as applied for claims 18, 20, 21, 27 to 31, and 33 above, and further in view of Vandergheyst.

Claim 32 is directly dependent on claim 18 and claim 34 is indirectly dependent on claim 18. In light of the discussion above with respect to claim 18 withdrawal of the rejection of claims 32 and 34 is respectfully requested.

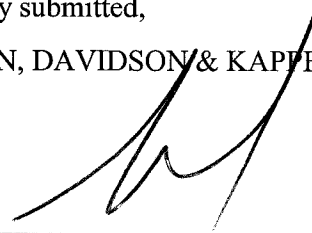
CONCLUSION

It is respectfully submitted that the application is in condition for allowance and applicants respectfully request such action.

If any additional fees are deemed to be due at this time, the Assistant Commissioner is authorized to charge payment of the same to Deposit Account No. 50-0552.

Respectfully submitted,

DAVIDSON, DAVIDSON & KAPPEL, LLC



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By: _____

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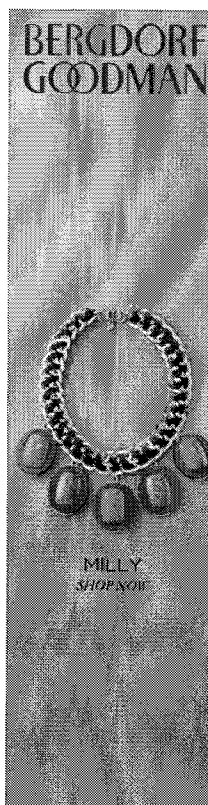
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screen·ing [skree-ning] [Show IPA](#)**noun**

- the act or work of a person who screens, as in ascertaining the character and competence of applicants, employees, etc.
- the showing of a motion picture: *There will be screenings at 6 p.m. and 8 p.m.*
- screenings**, (*used with a singular or plural verb*)
 - undesirable material that has been separated from usable material by means of a **screen** or sieve: *screenings of imperfect grain.*
 - extremely fine coal.

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Origin:1715-25; **screen** + **-ing**¹**Related forms****pre-screen-ing**, *noun***Screening is always a great word to know.****So is callithumpian. Does it mean:**

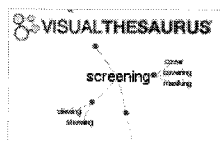
- A** a children's mummer's parade, as on the Fourth of July, with prizes for the best costumes.
- B** the offspring of a zebra and a donkey.

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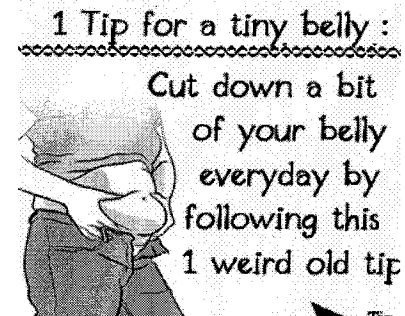
showing, viewing, cover, covering,
 masking

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- a movable or fixed device, usually consisting of a covered frame, that provides shelter, serves as a partition, etc.

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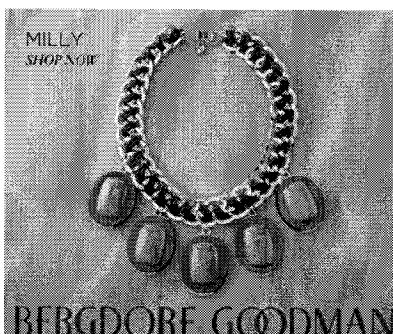
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cytoanalyzer	screen
genetic screening	shade
grizzly	sleeping porch
line art	thermography
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1393, probably from an aphetic (Anglo-Fr.?) variant of O.N.Fr. *escren*, O.Fr. *escran* "a screen against heat" (1318), perhaps from M.Du. *scherm* "screen, cover," or Frank. **skrank* "barrier," from a Gmc. root related to O.H.G. *skirm*, *skerm* "protection" (cf. *skirmish*). Meaning "net-wire frame used in windows"

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